

REVISED LAWS OF MINNESOTA *94*

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

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ST. PAUL
WEST PUBLISHING CO.

1910

PART IV.

CRIMES, CRIMINAL PROCEDURE, IMPRISONMENT, AND PRISONS.

CHAPTER 93.

GENERAL PROVISIONS.

4756. Criminal responsibility of insane persons.

G. S. 1894, § 6303, cited and applied in *State v. Williams*, 96 Minn. 351, 105 N. W. 265.

4758. Principal defined.

Operation and validity.—One who at common law would be an accessory before the fact may, by virtue of this section, be charged directly with the commission of the felony as principal, and on his trial evidence may be received to show that he procured the crime to be committed. The admission of such evidence is neither a variance nor a violation of Const. art. 1, § 6. *State v. Whitman*, 103 Minn. 92, 114 N. W. 363.

4763. Punishment of misdemeanors when not fixed by statute.

In general.—The maximum penalty for a misdemeanor, when not expressly fixed by the statute defining it, is prescribed by this section. *State v. Kight*, 106 Minn. 371, 119 N. W. 56.

4771. Attempts—How punished.

Attempt—Larceny.—An attempt to commit larceny is an overt act or acts done with intent to deprive the true owner of his property, or of the use and benefit thereof, or to appropriate the same to the use of the taker, and tending to effect the commission of the crime, but failing to accomplish it. *State v. Miller*, 103 Minn. 24, 114 N. W. 88.

[4776—]1. **Suspension of sentence.**—That the several courts of record of this state having jurisdiction to try criminal causes shall have power, upon the imposition of sentence against any person who has been convicted of the violation of a municipal ordinance or by-law, or of any crime for which the maximum penalty provided by law does not exceed imprisonment in the state prison for five years, to stay the execution of such sentence whenever the court shall be of the opinion that by reason of the character of such person, or the facts and circumstances of his case, the welfare of society does not require that he shall suffer the penalty imposed by law for such offense so long as he shall thereafter be of good behavior. ('09 c. 391 § 1)

Historical.—“An act authorizing courts of record of this state having criminal jurisdiction to suspend sentence and place on probation persons convicted in certain cases, and providing for the control and disposition of such persons.” Approved April 22, 1909.

[4776—]2. **Same—Period of suspension—Probation.**—Such stay shall originally be for a definite time; and during such time the person so sentenced may be placed upon probation under the supervision of a probation officer in counties where such officer is provided by law, and in other counties under the supervision of some discreet person who will accept such supervision and serve without pay, making report to the court as required. Provided, however, that nothing herein contained shall prevent the court from placing such persons under the supervision of a constable, sheriff or police officer specially detailed for that purpose. The court may make

such terms and conditions of probation as are deemed suitable and may require a recognizance or other surety conditioned upon the performance of such terms and conditions and may enforce the same. On the expiration of the original period of probation the court may from time to time renew or extend the same for additional definite periods upon such conditions as are deemed proper, provided, the total period of such suspension of sentence shall not exceed one year except in case of conviction of a crime the maximum penalty for which is imprisonment for a term exceeding one year, and in such case such total period of suspension of sentence shall not exceed the term of such maximum penalty. The court may in its discretion suspend sentence indefinitely. The court may make such order in or out of term, and at any place within the judicial district in which the case was tried. ('09 c. 391 § 2)

[4776—]3. Same—Revocation.—Before sentence has been indefinitely suspended the court shall have power, in the exercise of its discretion, to revoke the order staying sentence and releasing such person on probation, without notice and at any time or place mentioned in section two [4776—2] of this act, stating in such order of revocation the reasons therefor; in which case the sentence theretofore imposed shall be executed in all respects as though no proceedings under this act has been taken. ('09 c. 391 § 3)

[4777—]1. Restoration to civil rights—Persons heretofore convicted.—All persons residing or having their domicile in the state of Minnesota, who have heretofore been convicted of a felony and sentenced by a court of this state to pay a fine for such offense or to be confined in a county jail, for such offense, and who have paid and satisfied such fine or served such sentence shall be restored to all their civil rights and to full citizenship with full right to vote and hold office, the same as if such conviction and sentence had not taken place, in the manner hereinafter provided. Before such restoration to civil rights shall take effect such person or persons shall at the end of one year from the date of the judgment thereof or at any time thereafter first apply to the district court where such person or persons may reside and produce before such judge three witnesses to testify to his or her good character during the time since such conviction, and if said judge shall be satisfied of such good character he shall issue an order restoring such party to all civil rights, which order shall be filed with the clerk of said court; thereupon said restoration to civil rights shall take effect and be in full force. ('07 c. 34 § 1)

Historical.—"An act to restore full rights and citizenship to all persons who have been or may be convicted of a felony and sentenced to jail or to pay a fine, and who have served or shall serve such sentence, or who have paid or shall pay such fine." Approved March 12, 1907.

[4777—]2. Same—Persons hereafter convicted.—All persons who shall hereafter be convicted of a felony in any court of this state and sentenced to jail or to pay a fine therefor and who shall serve such sentence or pay such fine, upon complying with the provisions of section 1 [4777—2] of this act, shall have all their civil rights restored as therein provided. ('07 c. 34 § 2)

4780. Convict as witness.

Conviction—Cross-examination.—It is not competent, by way of impeachment, to ask a witness on cross-examination if he had ever been arrested for a crime, or if he was in attendance on court in custody of a sheriff under arrest for a crime, without reference to whether or not he had ever been convicted of a crime. *State v. Bryant*, 97 Minn. 8, 105 N. W. 974.

Cited and applied in *State v. Gordon*, 105 Minn. 217, 117 N. W. 483.